

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

ALTA CALIFORNIA REGIONAL CENTER,

Service Agency.

OAH No. 2018080107

DECISION

This matter was heard before Administrative Law Judge Heather M. Rowan, State of California, Office of Administrative Hearings (OAH) on October 31, 2018, in Sacramento, California.

Claimant's father represented claimant, who was present for part of the hearing.

Robin Black appeared on behalf of the Alta California Regional Center (ACRC or regional center).

Evidence was received, and the record was held open until November 16, 2018, for submission of closing briefs. OAH received the parties' closing briefs, marking claimant's brief as Exhibit O, and ACRC's Brief as Exhibit 10. The case was submitted for decision on November 16, 2018.

ISSUE

Should ACRC fund an accessible bathroom at claimant's father's home, where claimant spends 50 percent of his time?

## FACTUAL FINDINGS

1. Claimant is a 12-year-old client of ACRC. He is eligible for regional center services under the fifth category of eligibility, namely: having a condition closely related to intellectual disability based on a diagnosis of "Developmental Disability, Not Otherwise Specified" (DD-NOS). Claimant's primary diagnosis is lissencephaly.<sup>1</sup> Claimant began receiving services from the regional center in the first quarter of 2007. Claimant is non-ambulatory and non-verbal. He requires constant supervision to assist with activities of daily living, to ensure his safety, and due to a propensity to having seizures.

2. In 2011, claimant's parents divorced. The court granted claimant's parents joint legal custody of claimant and his two sisters. In 2014, his parents entered into a "Stipulation and Order Regarding Child Custody and Child Support" (stipulation). His parents agreed to an "alternating-week parenting plan." The three minor children live with one parent for one week, and the other parent for one week. They share joint physical and legal custody.

3. Claimant's initial Individual Family Services Plan (IFSP) was on January 31, 2007. Both of his parents were present. Since that time, claimant has had annual Individual Program Plan (IPP) meetings with his ACRC service coordinator, and one or both of his parents. Evidence of claimant's IPP reports from 2011 through 2018 were submitted at hearing. Claimant's Statement of Goals articulated in his IPP reports have adjusted over the years based on his age, educational needs, and level of care required. In general, claimant's goals have been to:

- Continue to live with his family;
- Receive an appropriate education;
- Maintain good physical and mental health;

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<sup>1</sup> Lissencephaly is a rare genetic disorder of the brain.

- Be safe;
- Have access to appropriate medical equipment needed to ameliorate the physical impact of his developmental disability or facilitate the maintenance of his independent, productive, normal life.

4. The IPP reports are drafted by claimant's ACRC service coordinator, and signed by the participants. Claimant's father attended some of the meetings, and claimant's mother attended all of them. In the 2011 IPP report, claimant's service coordinator wrote that claimant lived with both parents, but the report refers primarily to claimant's mother when referring to how goals will be carried out. The report was sent to claimant's parents at their joint address. In 2012, claimant's service coordinator wrote that claimant lived with his mother and two sisters in Sacramento. His father did not attend the meeting, and was not sent a copy of the report.

5. In 2013, claimant's mother and father attended the IPP meeting. The service coordinator wrote that claimant "lives with his mother and 2 sisters... [h]e sees his father on a regular basis." Claimant's father did not object to the characterization of the living arrangement at the time. Claimant's parents requested resources for parenting classes due to claimant's behavior concerns. The report also identified that, due to claimant's disability and growth as he ages, it was getting increasingly difficult to transfer claimant into and out of the bathtub. Claimant's parents agreed to obtain a prescription for durable medical equipment necessary for claimant's bathing, and to seek generic funding resources. Unlike the 2011 IPP report, the 2013 IPP report referred to claimants "parents" and "family" as the actors who would carry out the stated goals. The report was sent solely to claimant's mother.

6. Both of claimants' parents attended his 2014 IPP meeting. The report contained identical language as the 2013 report regarding claimant's living situation: claimant "lives with his mother and 2 sisters... [h]e sees his father on a regular basis."

Claimant's father did not object to the terminology. Other than the reference to the parenting class in 2013, the 2014 IPP report was virtually identical to 2013. The report was sent to both of claimant's parents at their individual addresses.

7. Claimant's mother attended the 2015 IPP meeting. The service coordinator described claimant's living arrangement as: "with his mother ... and his two sisters. ..." No mention was made of claimant's father. The report explained that claimant's mother's home was being assessed for accessibility, including a stair lift, roll-in shower, and bathroom modification. Additionally, if no generic resources were available, claimant's service coordinator agreed to request ACRC funding. The report was not mailed to claimant's father.

8. Claimant's mother attended claimant's 2016 IPP meeting. Claimant was reported to live "with his mother and two sisters," and claimant "also resides with his father ... however [mother] is the primary contact person and if needed she will convey the information to [father]. The report further stated, "[Claimant] is a minor child in the care of his biological parents ... Parents are divorced and have shared custody. [Mother] is the primary care taker for [claimant]. Though the service coordinator acknowledged that claimant's parents have shared custody, the report identifies claimant's mother as a "single mother." Claimant's number one objective in 2016 was to "continue to live with his family." The IPP report stated that the durable medical equipment needed for claimant's ability to access his mother's home, shower, and bathroom were in progress. The report was not sent to claimant's father.

9. Claimant and his mother attended his 2017 IPP meeting. The report stated that claimant lived with his mother and sisters. Objective number three identified in the IPP report was: "Given access to appropriate durable medical equipment claimant will be able to fully participate in his environment outside and inside the home through June 2018." The report referred to claimant's "parents" and "family" throughout as those

responsible for coordinating or providing his care. The report was not sent to claimant's father.

10. Claimant and his mother attended his 2018 IPP meeting on June 6, 2018. The IPP report stated: "[Claimant] is a 12 year old boy. He lives with his father ... half the time and the rest of the time with his mother ... [and] sisters... [Claimant's parents] are caring parents who are committed to advocating for [claimant's] needs to ensure he reaches his full potential." Again, the report referred to claimant's "parents" and "family" throughout as those responsible for coordinating or providing his care. Objective number three in the report was, "Given access to appropriate durable medical equipment, [claimant] will be able to remain healthy and clean through June 2019." The report was not sent to claimant's father.

In an addendum to claimant's 2018 IPP, the service coordinator identified a new goal and a new objective. The new goal was that claimant "will continue to live in the family home." The new objective was that, "[w]ith respite, claimant will continue to live with his family through 6/2019." An "added or changed service and supports" was: claimant "will continue to live with his parents in the family home."

## CLAIMANT'S REQUEST

11. On June 25, 2018, claimant's father requested assistance from ACRC to make his new home accessible for claimant. Specifically, claimant's father was concerned that claimant would be unable to transfer into and out of the shower in its current configuration and especially once he becomes too heavy for his father to lift him. Claimant's service coordinator consulted with Client Services Manager Johnny Xiong, who requested "court documentation reflecting [claimant's parents'] 50/50 custody." The service coordinator obtained the information. The request was brought before ACRC's Durable Medical Equipment Committee, and denied. Claimant's father was

notified that he would receive a "Notice of Proposed Action," which would memorialize the denial, and inform him of his appeal rights.

12. ACRC sent claimant's father the Noticed of Proposed Action on July 16, 2018. ACRC explained that the reason for the action was:

There is no assessed need for the requested modifications since ACRC in 2016 funded environmental accessibility modifications to [claimant's] mother's house, including funding and installing a platform lift to transfer [claimant] from the garage into the home, an overhead lift system to transport [claimant] from his bedroom to the bathroom and back, and a barrier-free shower in the bathroom. Since ACRC has already funded supports to improve [claimant's] environmental accessibility in his mother's home, it would be a duplication of services and therefore not a cost-effective use of public resources for ACRC to pay for the same types of modifications for the same client in more than one home. Your choice to have [claimant] reside part-time in the homes of both his parents does not obligate the regional center to fund environmental accessibility modifications in both homes.

13. The Notice of Proposed Action was sent to both of claimant's parents. Claimant's father appealed. The fair hearing followed.

## ACRC'S EVIDENCE AND ARGUMENTS

14. Johnny Xiong has worked at the regional center for five and one half years. He has been a Client Services Manager for two years, and he oversees service

coordinators, including the service coordinator assigned to claimant. He was involved in the process regarding ACRC's denial of claimant's father's request. Mr. Xiong testified at hearing.

15. Mr. Xiong explained how the regional center interacts with divorced parents of regional center clients. He stated that if both parents "want to be involved," that the regional center "ensures they are included." He stated that the service coordinator knows a parent wants to be involved by his or her participation in IPP and Individualized Education Program (IEP) meetings,<sup>2</sup> whether the parent calls the regional center, or if the other parent indicates this to the regional center. He explained that ACRC informs a client's representative of the annual meetings by email or phone calls to "whoever the contact is for the client." Notices are also mailed by regular mail. Even if a parent had attended an IPP meeting, ACRC only contacts "the point of contact." In this case, ACRC determined the point of contact was claimant's mother.

16. Mr. Xiong is aware that ACRC funded a bathroom modification in 2016. Prior to the modification, ACRC ensured the modification was medically necessary, that generic funds were not available, and an environmental assessment determined the scope of the need. Mr. Xiong instructed the service coordinator to refer the request to the Durable Medical Equipment committee. The committee determined that to grant the request would be a "duplication of services" and not the best utilization of public funds.

17. When determining whether to fund a purchase of services, Mr. Xiong refers to the Lanterman Developmental Disabilities Services Act (Lanterman Act)<sup>3</sup> and

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<sup>2</sup> IEPs apply to students who are receiving special education services at their schools.

<sup>3</sup> Welfare and Institutions Code section 4500 et seq.

ACRC's policy as developed by the Board of Directors (Board). ACRC's Board-adopted "General Standards for the Purchase of Services and Supports," states that, once it is determined that no public or private resource is available to meet an identified need, ACRC "shall provide payments... in keeping with the following:"

- The service shall conform to the Lanterman Act.
- The service meets a need related to the developmental disability of the consumer.
- The service or support must achieve goals or objectives that are clearly stated and defined by measureable outcomes.
- The service is supported by research as effective and not harmful.
- The service or support shall not duplicate one already being provided through natural supports, generic services or purchases by the regional center.
- The service or support encourages independence, productivity, age appropriate skills and inclusion rather than segregation or isolation.
- The service must be provided by an "authorized" service provider. The written commitment for payment must be available to the service provider prior to beginning the service.
- The service is cost effective.

Mr. Xiong explained that the request for a shower modification does not qualify under ACRC's standards because ACRC already purchased a shower modification for claimant in his mother's home. He is not aware of a time that ACRC has funded a service for divorced parents in both parents' homes.

18. When he learned of claimant's request, Mr. Xiong asked whether there was a divorce and custody agreement on file to document shared custody between claimant's parents. Mr. Xiong did not explain the import of the document. He confirmed that he is aware that claimant lives 50 percent of the time with each parent. At hearing,



he identified that one of claimant's primary goals is to stay in his home with his family. The regional center assessed that claimant needed to have an accessible bathroom to meet his goal of staying in his home. Mr. Xiong stated that if claimant's parents decided that their children would live in separate homes, that is a family decision, and does not involve the regional center.

19. Mr. Xiong represented that when ACRC funded the shower modification for claimant's mother's home, ACRC "assumed the parents should have talked to each other, and the regional center, to discuss how the services will be shared." There was no evidence that the regional center communicated that assumption to claimant's parents, however. Mr. Xiong also asserted that the regional center upheld its responsibility when it funded the modifications needed at claimant's mother's house.

20. Even though the practical effect of claimant not having a modified shower at his father's house is that he would only be able to live with his mother, Mr. Xiong denied that this meant that the regional center only addressed 50 percent of claimant's assessed need. Nor did Mr. Xiong deny that claimant may need a shower modification at his father's home. He stated that there has been no assessment, so it would be premature to say whether the need exists, but even if it does, the regional center is not responsible to fund it.

21. ACRC submitted documentation of claimant's IEP meeting notices, assessment plans, and parent consent forms from 2013 to 2018.<sup>4</sup> Claimant's school sent both his mother and father notices of upcoming IEP meetings one to two months prior to the meeting. On all but one occasion, claimant's father returned the form indicating

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<sup>4</sup> The evidence appears to be an incomplete record of claimant's IEPs from 2013 to 2018, but it does document most meetings and amendments.

he would attend. On one occasion, he indicated that he would be unable to attend, but authorized claimant's mother to represent him.

22. ACRC further argued the following:

- a) The Legislature stated that it is more cost effective to maintain a child "at home" than in an out-of-home placement. Maintaining a child at home does not require the regional centers to "maintain children in multiple family homes." (Emphasis in original.) This objective can be met by supporting a child in "just ONE family home." Because claimant has been provided all the services and supports he needs in his mother's home, he is not at risk of out-of-home placement.
- b) The additional costs of supporting children in two homes is properly borne by the parents who "*chose* to have the child reside in two homes." (Emphasis in original.)
- c) In their divorce agreement, the parents agreed to obtain the other's written consent regarding major medical and education decisions for the children. Claimant's parents are not adhering to their custody agreement regarding written consent, and because of this, ACRC must deny claimant's request.
- d) Claimant's mother is the "primary caregiver" for purposes of Family Code section 3086, which provides that the court may specify one parent as the "primary caretaker" and one home as the "primary home" for the purposes of determining eligibility for public assistance.
- e) Claimant's mother applied for the environmental accessibility modifications first, and under "comparable government benefits programs," such as those administered by the Department of Social Services, the first to request is the only to receive.

- f) The State of California has no policy or law that requires children to reside with both parents to give effect to the state's policy that children should have frequent and recurring contact with both parents after divorce. (Fam. Code, § 3020, subd. (b).) Thus, the regional center need not fund services that would make an equal custody arrangement possible.
- g) Claimant's parents can petition a family law court for an order regarding funding the costs of the modifications if they disagree regarding who is responsible. "ACRC is not equipped or qualified to resolve any disputes between [claimant's] parents regarding their financial obligations toward him."

## CLAIMANT'S FATHER'S EVIDENCE

23. Claimant's parents divorced in 2011. The family lived in Rancho Murieta, but his mother moved to Sacramento, about 40 minutes away, when the parents separated. Claimant's father saw claimant and his two sisters as often as he could, but the distance made regular visitation difficult. By October of 2014, the children lived with each parent equally, pursuant to a negotiated custody arrangement. Currently, every Friday evening, the three children move from one parent's home to the other, which means they live at one home for seven days in a row.

24. Claimant's father attended several IPP meetings, but stopped receiving notices of the date and location. He was not informed of the meeting outcomes or asked to sign whether he agreed with the outcomes. Claimant's father acknowledged that claimant's case manager had, on several occasions, incorrectly described claimant's living situation by failing to acknowledge his parents' joint custody arrangement. Claimant's father did not believe this to be a notable error, however, and did not request it to be corrected.

25. The shower that claimant is using at his father's house barely fits claimant and a shower chair. Additionally, claimant is getting to an age and weight that his father

cannot safely lift him and bathe him in the existing shower. Claimant's father is committed to maintaining the joint custody arrangement of claimant and his sisters, and would like his home to be accessible for all three children. If claimant is unable to bathe for seven days in a row, it is not sustainable for him to live with his father. Were that the case, claimant would be separated from his sisters (and his father) for the week his sisters live with their father. Claimant's father argued that ACRC has unilaterally defined claimant's mother's home as being claimant's "home," and that by not funding the shower modification, ACRC is effectively forcing claimant to live only with his mother.

26. Claimant's father responded to the regional center's arguments:

- a) There is no basis for ACRC to define claimant's home as limited to the place where he spends 50 percent of his time. Rather, claimant's home is where he resides with his family: for one week it is at his mother's residence, and for one week it is at his father's. In both homes, claimant lives with a parent and his sisters.
- b) ACRC does not have standing to argue whether claimant's parents are adhering to their divorce agreement. The denial of services and supports was not predicated on a lack of written consent, or lack of adherence to the divorce agreement. Even if it were written consent that formed the basis of denial, that could have been easily remedied. Similarly, claimant's parents' divorce, the terms of the divorce, and how the family could resolve the costs associated with claimant's care are not issues before ACRC. The only question is whether ACRC is obligated to fund the home modifications for claimant's accessibility.
- c) There is no evidence in the record that claimant's mother is the "primary caregiver." To focus on claimant's mother's involvement and paint his father in an unflattering light does not establish a basis for denial. Additionally,

claimant's father actively participated in the school IEP process – a process that included the common courtesy of mailing notice of the meetings to both parents.

- d) The benefits the Lanterman Act contemplates are for claimant, regardless of which of his parents requests them. Unlike diapers, medical supplies, formula, and even the van necessary to transport claimant, a bathroom cannot be moved between claimant's homes. To effectuate the mandate of the Lanterman Act, that consumers live with their families if that is their goal, the regional center is obligated to grant claimant's father's request.

## DISCUSSION

27. The Lanterman Act mandates that a consumer's IPP be based on his individual needs. In providing the services and supports necessary to meet those needs, the regional center must look to the availability of generic resources, avoid duplication of services, and ensure the cost-effective use of public funds. The only matter at issue in this fair hearing is whether the regional center is obligated to fund a modification for claimant's environmental accessibility in both of claimant's homes. The regional center paid to ensure claimant's mother's home was accessible for him, and now states that any similar funding would be duplicative and contrary to its policy regarding funding supports and services. This finding is based on ACRC's decision to designate claimant's mother's home as being the only "home." This finding is in error.

28. ACRC argued that its responsibility is to support children to stay in their home, not multiple homes. Here, if claimant is unable to stay with his father because his health and cleanliness needs cannot be met, ACRC stated that the end result is not that claimant would be subject to out-of-home placement. No evidence was produced, however, regarding whether claimant's mother is equipped to house him on a full-time basis, whether he would be placed elsewhere during the days he would have been at his

father's home, or what additional resources would be necessary to assist claimant's mother and at what cost. Even so, ACRC is so intent that it is only responsible for one home, and cannot be made to provide for children who have "multiple homes," that it ignores the overwhelming motivation of Welfare and Institutions Code section 4685 (Section 4685).

29. Section 4685 specifically states that "children with developmental disabilities most often have greater opportunities for educational and social growth when they live with their families," and "[t]he Legislature places a high priority on providing opportunities for children with developmental disabilities to live with their families, when living at home is the preferred objective in the child's individual program plan." It is clear that living at home is claimant's preferred objective as stated in his IPP. Year after year, one of his goals has been "to continue to live with his family."

30. To effectuate children with developmental disabilities living with their families, the Legislature, in Section 4685, has directed the regional centers to support the family's decision making, be flexible and creative in meeting the unique and individual needs of families as they evolve over time, and focus on the entire family and promote the inclusion of children with disabilities in all aspects. Further, regional centers "shall give a very high priority to the development and expansion of services and supports designed to assist families that are caring for their children at home." To meet this mandate, ACRC must support claimant's evolving family needs to allow him to stay in his family home and with his family.

31. This primary issue, whether providing claimant with accessibility in his home is the regional center's responsibility, has been obfuscated with arguments regarding the details of claimant's parents' divorce and custody agreements, provisions of law that were only loosely connected to the regional center's operations, and statements suggesting that if there is no written policy or law, the interests of the child

are irrelevant. None of these arguments are germane to determining how to effectuate the Legislative intent to support developmentally disabled children in their homes and with their families.

32. The Lanterman Act offers no legal definition of a consumer's "home." It does, however, reiterate throughout the body of law that allowing developmentally disabled persons to be included in society, to live with their families, to be as productive and equal as possible, are the overall intents of the statutory scheme. Thus, a person's home must be defined in light of the primary goal, indeed the "high priority," of "providing opportunities for children with developmental disabilities to live with their families." Claimant's "home," is not narrowly defined as the address the regional center has on record. Rather, claimant's home is where he lives with his family. He has a mother, a father, and two sisters. Two weeks of the month he lives with his mother and two sisters and two weeks of the month he lives with his father and two sisters. This is his home.

33. The regional center effectively excluded claimant's father from the IPP process by not notifying him of meetings and their outcomes. It then faulted him for his lack of participation. The only explanation given was that case managers only reach out to the family's "main point of contact," and rely on the family to pass on the message. In 2018, however, when claimant's father took it upon himself to contact the regional center, claimant's file was amended to include both of his home addresses, and to indicate that his parents had joint custody. Mr. Xiong stated that when a parent participates in a child's IEP process, ACRC takes that as an indication that the parents wants to be involved in the child's IPP planning team. The school informed claimant's father of each IEP meeting, and claimant's father attended all but one. Additionally, ACRC submitted documentation that claimant's school provides IEP notices as a matter of course to both parents to request their participation. Including both parents in

divorced households seems to be a customary practice for other entities that serve claimant. The regional center also receives IEP records for claimant, and was aware of this arrangement.

34. The regional center's assertion that funding this shower modification should be denied because it would be a duplication of services is contrary to the objectives in the Lanterman Act. Certainly the Legislature has directed the regional centers to be efficient and not wasteful in supporting developmentally disabled persons, but it has also stated in myriad ways that developmentally disabled children should be with their families where possible. Additionally, ACRC's policy states that a "service or support shall not duplicate one already being provided through natural supports, generic services or purchases by the regional center." ACRC seems to argue that if claimant can take a shower in one place, any other shower would be duplicative. This is not so. There is no other service or support that allows claimant to bathe at his father's home. Rather than funding for a modification at claimant's father's house being duplicative, it is more accurate to view the funding for claimant's mother's home modification as being partial, as it meets only 50 percent of claimant's need.

35. Claimant is primarily non-ambulatory and non-verbal. By all accounts, the efforts that his parents have expended for his care, education, and inclusion in the family system have resulted in a happy, engaging, and loved boy. A support system and involved family should be celebrated by the regional center, rather than thwarted. Thus, the regional center should fund an environmental accessibility assessment for claimant's father's home, as well as any recommended modifications.

## LEGAL CONCLUSIONS

1. In the Lanterman Act, the Legislature has created a comprehensive scheme to provide "an array of services and supports ... sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree



of disability, and at each stage of life and to support their integration into the mainstream life of the community.” (Welf. & Inst. Code, § 4501.) The purposes of the scheme are twofold: (1) to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community (Welf. & Inst. Code, §§ 4501, 4509, 4685); and, (2) to enable developmentally disabled persons to approximate the pattern of living of nondisabled persons of the same age and to lead more independent and productive lives in the community.” (Welf. & Inst. Code, §§ 4501, 4750-4751; see generally *Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.)

2. “Developmental disability” means a disability that originates before an individual attains 18 years of age ... continues, or can be expected to continue, indefinitely ... and shall also include disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with an intellectual disability. ...” (Welf. & Inst. Code, § 4512, subd (a).) “Services and supports for persons with developmental disabilities” means “specialized services and supports or special adaptations of generic services and supports directed toward the alleviation of a developmental disability, or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, and normal lives ... Services and supports listed in the individual program plan may include, but are not limited to, ...personal care, domiciliary care, ... adaptive equipment and supplies ... ” (Welf. & Inst. Code, § 4512, subd. (b).)

3. To determine how an individual consumer is to be served, regional centers are directed to conduct a planning process that results in an IPP for the consumer. Welfare and Institutions Code section 4646, subdivision (a) specifies:

It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

4. A regional center is required to secure the services and supports needed to satisfy a client's needs as determined in the IPP. (Welf. & Inst. Code, § 4648, subd. (a); *Association for Retarded Citizens v. Department of Developmental Services, supra*, 38 Cal.3d at p. 390.)

5. Welfare and Institutions Code section 4647, subdivision (a) states:

Service coordination shall include those activities necessary to implement an individual program plan, including, but not limited to, participation in the individual program plan process; assurance that the planning team considers all appropriate options for meeting each individual program plan objective; securing, through purchasing or by obtaining

from generic agencies or other resources, services and supports specified in the person's individual program plan; coordination of service and support programs; collection and dissemination of information; and monitoring implementation of the plan to ascertain that objectives have been fulfilled and to assist in revising the plan as necessary.

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6. Welfare and Institutions Code section 4648 provides, in part:

In order to achieve the stated objectives of a consumer's individual program plan, the regional center shall conduct activities, including, but not limited to:

(a) Securing needed services and supports.

(1) It is the intent of the Legislature that services and supports assist individuals with developmental disabilities in achieving the greatest self-sufficiency possible and in exercising personal choices. The regional center shall secure services and supports that meet the needs of the consumer, as determined in the consumer's individual program plan, and within the context of the individual program plan, the planning team shall give highest preference to those services and supports which would allow minors with developmental disabilities to live with their families ...

7. Welfare and Institutions Code section 4685, subdivision (a) states, in relevant part:

(a) Consistent with state and federal law, the Legislature finds and declares that children with developmental disabilities most often have greater opportunities for educational and social growth when they live with their families. The Legislature further finds and declares that the cost of providing necessary services and supports which enable a child with developmental disabilities to live at home is typically equal to or lower than the cost of providing out-of-home placement. The Legislature places a high priority on providing opportunities for children with developmental disabilities to live with their families, when living at home is the preferred objective in the child's individual program plan.

(b) It is the intent of the Legislature that regional centers provide or secure family support services that do all of the following:

(1) Respect and support the decisionmaking authority of the family.

(2) Be flexible and creative in meeting the unique and individual needs of families as they evolve over time.

(3) Recognize and build on family strengths, natural supports, and existing community resources.

(4) Be designed to meet the cultural preferences, values, and lifestyles of families.

(5) Focus on the entire family and promote the inclusion of children with disabilities in all aspects of school and community.

(c) In order to provide opportunities for children to live with their families, the following procedures shall be adopted:

(1) The department and regional centers shall give a very high priority to the development and expansion of services and supports designed to assist families that are caring for their children at home, when that is the preferred objective in the individual program plan. This assistance may include, but is not limited to specialized medical and dental care ... behavior modification programs, special adaptive equipment such as wheelchairs, hospital beds, communication devices, and other necessary appliances and supplies, and advocacy to assist persons in securing income maintenance, educational services, and other benefits to which they are entitled.

(2) When children with developmental disabilities live with their families, the individual program plan shall include a family plan component which describes those services and supports necessary to successfully maintain the child at home. Regional centers shall consider every possible way to

assist families in maintaining their children at home, when living at home will be in the best interest of the child, before considering out-of-home placement alternatives. ... When the regional center first becomes aware that a family may consider an out-of-home placement, or is in need of additional specialized services to assist in caring for the child in the home, the regional center shall meet with the family to discuss the situation and the family's current needs, solicit from the family what supports would be necessary to maintain the child in the home, and utilize creative and innovative ways of meeting the family's needs and providing adequate supports to keep the family together, if possible.

8. Similarly, the Legislature "recognizes the ongoing contributions many parents and family members make to the support and well-being of their children and relatives with developmental disabilities. It is the intent of the Legislature that the important nature of these relationships be respected and fostered by regional centers and providers of direct services and supports." (Welf. & Inst. Code, § 4620.1.)

9. ACRC has determined that claimant has one home and that his mother is the primary point of contact. Pursuant to Factual Finding 33, ACRC stopped communicating with claimant's father, and offered no reasonable explanation why it did not take the simple step of mailing notices of IPP meetings. Pursuant to Factual Findings 27 through 32, claimant's home is where his family lives, and to allow claimant to live a normal life, with his parents and siblings, he must be accommodated in both his mother's home and his father's home. The Legislative intent, as stated in the Legal Conclusions as a whole, is that, where and how possible, children with developmental

disabilities should be with their families. It is incumbent upon the regional centers to work with consumers' families to achieve this goal.

10. Starting in 2013, claimant's IPP addressed the need for a shower modification. In 2015, the IPP stated that one of claimant's goals was to "have access to appropriate medical equipment needed to ameliorate the physical impact of his developmental disability or facilitate the maintenance of his independent, productive normal life." After obtaining a prescription for a bathroom modification, a search for generic resources, and an environmental assessment, the regional center funded a bathroom modification at claimant's mother's home. No evidence was presented that the same steps have been followed here. An environmental assessment of claimant's father's home is necessary.

11. By reason of Legal Conclusions 9 and 10, claimant's appeal of ACRC's denial of funding for an accessible shower is granted, provided however, that an environmental assessment must be completed first and the assessment identifies this need.

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## ORDER

Claimant's appeal of the denial of his request for funding for a shower modification is GRANTED, provided that Alta California Regional Center first fund an assessment, in accordance with the Lanterman Act, to determine the scope of the need at claimant's father's home.

DATED: November 30, 2018

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HEATHER M. ROWAN  
Administrative Law Judge  
Office of Administrative Hearings

NOTICE

**This is the final administrative decision in this matter. Each party is bound by this decision. An appeal from the decision must be made to a court of competent jurisdiction within 90 days of receipt of the decision. (Welf. & Inst. Code, § 4712.5, subd. (a).)**